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FISCAL IMPACT STATEMENT

LS 7058 — **NOTE PREPARED:** Jan 12, 2012
BILL NUMBER: HB 1305 — **BILL AMENDED:**

SUBJECT: Ports of Indiana.

FIRST AUTHOR: Rep. Stemler — **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Property Tax Exemption:* The bill provides that certain leasehold interests in real property, including improvements, are exempt from property taxation if the real property is part of a port or project of the Ports of Indiana (Ports). It provides that unpaid property taxes on leasehold interests that are not exempt remain the liability of the lessee.

Bonds: The bill specifies that the Ports may issue bonds at public or private sale. It also increases the maturity date of bonds issued by the Ports from 35 to 40 years.

Property Appraisal: The bill reduces from three to one the number of appraisers required to appraise property before the Ports may sell the property. It authorizes the Ports to determine the time and manner of sales of property interests financed by bond proceeds.

Annual Audit: The bill removes a requirement that the State Board of Accounts conduct an annual audit of the Ports.

Contracts without Bids: The bill decreases from six months to 60 days the period during which the Ports may enter into contracts without advertising for bids.

Common Construction Wage Exclusion: The bill excludes the Ports from the common construction wage for purposes of self-liquidating or nonrecourse projects that are not located at a port.

Common Construction Wage Rates: It provides that the common construction wage that applies to certain contracts let by the Ports is the wage rate in effect on the earliest date that the Ports publishes notice of the contract.

The bill provides that leases of self-liquidating and nonrecourse projects are not subject to approval by the Governor.

<u>Effective Date:</u> April 1, 2012; July 1, 2012.

<u>Explanation of State Expenditures:</u> *Bonds:* The bill allows the Ports to issue bonds in a public or private sale and allow them to issue bonds with maturity dates of 40 years rather than 35 years. These changes would give the Ports greater flexibility in letting bonds and could help the Ports get better terms and better match the market.

Property Appraisal: The bill would change the requirement of having three appraisals before a property sale to only needing one appraisal. This change would allow the Ports to save on appraisal costs and could help expedite property sales. Any cost savings is expected to be small.

Annual Audit: Currently, the Ports are annually audited by an outside certified public accountant. The audit is submitted to the SBOA, who performs a compliance review of the Ports. Under the proposed bill, the annual auditing costs for the Ports would not change.

(Revised) *Contracts without Bids:* Currently, if the Ports have contracted to complete a project and have a similar smaller project that needs to be done within six months of the first contract, the Ports cannot award the project without putting the project out for bid. This proposal would change that secondary contracting period from six months to 60 days, requiring fewer projects to go out to bid. This could reduce the time and funds required to complete impacted projects.

Common Construction Wage Exclusion: This provision would exempt Ports of Indiana self-liquidating or nonrecourse projects that are not located at a port from the common construction wage law. The impact of the exemption from the common construction wage law is expected to vary by project. Although a number of studies suggest that wage determination provisions generally increase the labor cost of public works projects from 5% to 16% and exemption from this wage determination provision might reduce expenditures, the precise impact of the change cannot be determined.

Some studies argue for prevailing wage-type systems on the grounds that they lead to greater efficiency, quality, and safety by providing for a stable, well-trained labor force. If such benefits were not realized, the Ports could realize an increase in cost in the long run. Unfortunately, data limitations and questionable methodology limit the conclusiveness of many studies on prevailing wage laws.

If expenditures are reduced, additional impacts to the Ports might include the following:

- Debt incurred to finance projects could decrease due to lower project costs, reducing bonding.
- Funds may be available for other projects that would have been required for the project.

Similarly, capital expenses could be reduced, making more funding available for noncapital expenses in project budgets.

Common Construction Wage Rates: For Ports maintenance projects and projects which improve port facilities and infrastructure, the common construction wage rate that would apply is the wage rate in effect on the earliest date that the Ports publishes notice of the contract. Current law requires that wage rates used be set within three months. The time period between when a port project goes out for bid and when a contract is awarded is typically longer than 90 days, by which time the wage rate used in the bid would no longer be valid. Any impact on the Ports' costs for these projects would depend on how wage rates change between the period when an eligible project goes out for bid and when a contract is awarded.

Background Information: The Ports of Indiana was created by state legislation in 1961 and is charged with "promoting the agricultural, industrial, and commercial development of the state" through the establishment of port facilities on Indiana's waterways. Indiana has ports in Burns Harbor, Mount Vernon, and Jeffersonville that handle as much as $1.89 B in cargo shipments each year. A total of about 60 companies operate on 2,600 acres at the three ports, with about 800 acres still available for future development.

Explanation of State Revenues: (Revised) *Common Construction Wage:* If, as studies have shown, common wage requirements increase the costs of labor, then lower wages due to the exemption may decrease state income tax collections (assuming no increase in employment levels). A decrease in wages could result in a decrease in consumption which would decrease sales tax revenue. The impact would likely be minor.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Property Tax Exemption:* Under current law, land that is part of a port that is owned by the state or the Ports of Indiana and is leased is exempt from property taxation. The improvements on the land are not exempt except as otherwise provided under current law.

Under this bill, for leases that the Ports of Indiana enters into or renews with a political subdivision or other governmental entity after March 31, 2012, the assessed value of any improvements on the leased land would also be exempted from property taxation. This provision only applies to a lease the Ports of Indiana enters into or renews with a political subdivision or other governmental entity. The fiscal impact would be minimal as governmental property is not subject to property taxation under current law.

Additionally, after March 31, 2012, if the Ports of Indiana enters into or renews a lease with an entity whose property is not exempt from property taxation, the bill provides that any taxes imposed during the terms of the lease and remain unpaid upon expiration of the lease, would still be the responsibility of the lessee and not the Ports of Indiana or a subsequent lessee.

State Agencies Affected: Ports of Indiana; State Board of Accounts.

Local Agencies Affected: Local units collecting property taxes in Porter County, Posey County, and Clark County.

Information Sources: Ports of Indiana website, http://www.portsofindiana.com/; Paul Joyce, Deputy State Examiner, State Board of Accounts.

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